

THE PRINCIPLE OF RESPONSIBILITY AS THE SUPREME LEGAL PRINCIPLE IN THE WORK OF PUBLIC ORGANS

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Abstract: PURPOSE: The purpose of the research is to prove that the principle of responsibility is the supreme (primary) principle in the work of public organs (ministries, other state administration organs, organizations established by law, other state organs, legal and natural persons to whom, by law, is entrusted to exercise public powers, as well as the organs of the municipalities, the city of Skopje and the municipalities in the city of Skopje). RESEARCH METHODOLOGY: The research used the method of analysis of the provisions of the state constitutions for public administration and human rights; on the laws on public administration and on the procedural provisions that lead public organs, on the international legal acts on human rights and on the relevant literature on the organs of public administration. RESEARCH RESULTS: The research imposed the following basic ideas: Public organs are composed by people. Those people are organized by special acts for the organization and systematization of jobs. These acts are adopted on the basis of special laws that regulate social relations in various areas of social life. In the jobs to which people are assigned, they have precisely prescribed tasks that they are obliged to perform. The duty to perform them entails responsibility for non-performance or for low-quality and untimely performance. A democratic society is a society of responsible individuals and responsible public organs. There are no responsible public organs without responsible individuals. CONCLUSIONS: Public service in public organs is performed by officials. The responsibility of officials is manifested as a three-dimensional social phenomenon. The first dimension covers the responsibility of the official to himself as a person to whom the international legal acts on human rights and the Constitutions of the states guarantee respect and protection of honor, dignity and reputation. The second dimension of responsibility covers the responsibility of the officials, as public servants, in relation to the citizens, as clients. The third dimension of responsibility covers the responsibility of the officials to the public organs in which they work and his responsibility to the public service, as a service to the citizens within the state, as an organized community of citizens. The general conclusion is that the principle of responsibility is the supreme principle, the consistent implementation of which in the work of public organs directly depends on the implementation of other principles in their work. RECOMMENDATIONS: Throughout the process of education and upbringing, one should, first of all, work on developing the autonomous responsibility of officials. In addition to the autonomous responsibility with the activity of the control protection services and institutions of society: the system of internal control in public organs, inspections, internal affairs organs, the State Commission for the Prevention of Corruption, the Commission for Protection against Discrimination, the Ombudsman, prosecutors' offices and courts should be developed the heteronomous responsibility. ADDITIONAL INFORMATION: The autonomous morality, and thus the autonomous responsibility of public officials, in the public organs of the Republic of North Macedonia, is not at a satisfactory level. To the principle of accountability of public officials is not given enough attention. This is supported by the fact that it is attributed to a very small number of laws, and it is not found in procedural laws. This imposes the need to prescribe this principle in the laws for the regulation of social relations and for the work of public organs in all areas of social life, and this, as the first in order of rank, because the implementation of the other principles in the work of public organs directly depends on its implementation in the work of these organs.

Keywords: principle, responsibility, public authority, public service, official.

INTRODUCTION

Responsibility is a basic assumption for the efficient functioning of the state as an organized community of citizens and as a legal and political system. The character and form of the political system depends on the existence or non-existence of responsibility. The democratic political system starts from the assumption that citizens consciously and conscientiously perform their duties towards society and, thereby, create the basis and conditions for the harmonious development of mutual relations, and at the same time, conditions for the proper functioning of the democratic political system, as a whole.

The feeling of personal responsibility is one of the basic prerequisites for the efficient functioning of the institutions of the socio-political system of the state. Accordingly, every citizen bears responsibility for his actions in the sphere of social action. He also bears a certain degree of responsibility for his passive

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attitude towards the mistakes and violations of social rules of other citizens, because he is part of society made up of people who live, work, and satisfy their personal and common needs in conditions of mutual coexistence and solidarity. In such conditions, the omissions and violations of social norms, by certain citizens, have a negative impact on the realization of the rights and interests of other citizens.

Citizens, as members of a social community, also perform public functions or services, or participate in their performance. It is their right guaranteed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Constitution of the Republic of North Macedonia*.

Citizens perform or participate in the performance of public functions in public organs. Public organs are ministries, other state administration organs, organizations established by law, other state organs, legal and natural persons entrusted by law with exercising public powers, as well as the organs of the municipalities, the city of Skopje and the municipalities in the city of Skopje**.

Citizens who perform or participate in the performance of public functions in public organs have the status of authorized officials.

Every participant in the performance of a public office should be aware that he is participating in the service of citizens in the area of social life in which the public organ was established. Accordingly, the performance of public office must be human in nature and humane in purpose. To be such, it must be based on the respect of the person as a citizen - client in the procedure and on the trust towards him. The performance of a public function is human, which starts from the sense of responsibility of everyone who performs it. Filled with that feeling, the public official becomes aware that he is not "all-powerful," that he is not a man who knows all and that his word means "law."*** Otherwise, the public official takes on the psychology of an official - the bureaucrat. With such a psychology he turns into a blind follower of his superior and as such, seeking himself in the hierarchy of public service, he forgets his basic duties and waits for orders from his superiors. In that way, he is alienated from the service function of its performance of the public service. Thus alienated and bureaucratized, the public servant is subject to the use of public office for personal purposes, which in turn is the basis for the emergence of corruption in the ranks of public services.

In order to eliminate this sociopathological phenomenon in public organs, it is necessary, first of all, to work towards developing a sense of personal, ie autonomous responsibility among public officials. Autonomous responsibility is the basis of any institutional responsibility. Without autonomous responsibility there is no real responsibility. Institutional accountability is therefore a superstructure of autonomous accountability. That is why the developed sense of autonomous responsibility is a guarantee for the legal and efficient performance of public services by public authorities, and the principle of responsibility, as a legal principle, is a guarantee for the implementation of other principles in their action: the principle of constitutionality and legality, the principle of objectivity, the principle of service orientation, the principle of efficiency, the principle of economy and rationality and other principles.

RESPONSIBILITY OF OFFICIAL PERSONS FOR THEIR REPUTATION AND DIGNITY

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee every citizen of the Planet the right to protect his honor and reputation****. According to Article 1 of the Declaration, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should treat each other in the spirit of common humanity."

The Constitution of the Republic of North Macedonia, in Article 25, guarantees the citizens of the Republic, among other things, respect and protection of dignity and reputation. Honor, dignity and

* Everyone has the right to equal access to public services in their country (Article 21, paragraph 2 of the Universal Declaration of Human Rights). Every citizen has the right and the opportunity, without any discrimination and without unreasonable restrictions, to participate in the management of public affairs and to be accepted, under general equal conditions, in the public services of his country (Article 25 under a) and c) from the International Covenant on Civil and Political Rights). Every citizen has the right to participate in the performance of public functions (Article 23 of the Constitution of the RNM).

** See: Article 4, paragraph 1, of the Law on General Administrative Procedure ("Official Gazette of RSM", number 124/2015).

*** See: Hristov A., (1981), Administrative Law, Institute for the Advancement of the Economy of SRM, Skopje, p. 224.

**** See Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights.

reputation, as legal and moral values, imply a person with integrity, with a built system of moral values aligned with the moral values of the social environment.

When it comes to the officials of the public organs, the principle of responsibility requires them to act conscientiously towards the performance of their official duties. Reason, as a natural characteristic of man, as homo sapiens, should be in the function of conscience as a set of moral judgments of the person about his desires and actions. The conscience based on reason and in the spirit of common human belonging, to which the Universal Declaration of Human Rights refers, should create and maintain a person whose character will be distinguished by the following moral values: independence in work, sacrifice, caring, conscientiousness, etc. These moral values are the basis of the autonomous responsibility of the person as a moral category. A person whose autonomous morality relies on these moral values is characterized by strongly developed feelings of duty and responsibility for quality and timely performance of work duties. Such a person does not run away from tasks that entail responsibility before the community, but gladly accepts them as an opportunity for self-affirmation in the eyes of the members of the community, as an organized human system. When she accepted these values, she works seriously, with a critical attitude towards herself, and towards other members of the community who directly or indirectly participate or have an influence on the performance of the tasks. Such a person is alien to frivolity, uncriticalness, lack of a sense of duty, indifference, negligence and irresponsibility of others, ignoring work obligations which, unfortunately, is a characteristic of many public servants whose main concern is earning and advancing in the service with poltergeist attitude towards the superiors and the powerful, leaving aside the quality and efficiency of the work, as something secondary.

If the international legal acts and the provisions of the constitutions of the states on human rights and freedoms, based on them, guarantee the person the right to honor, reputation and dignity, that right should be protected. It will be most effectively protected with reason aimed at achieving as much efficiency and quality as possible in the performance of the public service, the basis of which is the conscience of the public servant as the basis of his autonomous morality and, therefore, of his moral responsibility on which, in turn, relies on his legal responsibility. Honor, reputation and dignity are best acquired by responsible work in the service of the citizens of one's own country who are part of humanity on Planet Earth. Only with such work will they confirm and prove the true belonging to their national community - a state in the spirit of the general human belonging spoken of by the Universal Declaration of Human Right.

RESPONSIBILITY OF OFFICIAL PERSONS IN RELATION TO CITIZENS AS CLIENTS

The state, as an organized community of people, is formed in order to provide order in society. By ensuring order in the society, it enables or rather should enable its citizens a safe life, freedom and security. It enables this through numerous organs and institutions established in all areas of social life. Those organs and institutions are formed to serve the citizens within the goals of the state as an organized community of people. They perform their function within the framework of their public powers prescribed by the laws of the state that regulate social relations in those areas. That is why they are public organs. In them work people - public servants and support staff (typists, hygienist drivers and others). The quality of the organs and institutions directly depends on the quality of the people. There is no organ, no institution is better than the people who make it up. Many experts in the field of constitutional and administrative law, and other public persons, make a mistake when they criticize the work of the organs and institutions of the state, forgetting the people, the public officials and employees who work in them. There is no responsibility of the public organs without the responsibility of the public officials and employees who manage them or work in them.

Officials employed in public organs, as public servants, should be aware that they work in the service of citizens; that the security of their life, their freedom and security within the state, depend, more or less, on their work. If they are aware of this, they will be in solidarity with the citizens as clients and will have an understanding for their problems and difficulties that life imposes on them. Solidarity is the essential basis of autonomous morality, and thus of the autonomous responsibility of public officials.

Solidary public servant places himself in the position of the client. Thus placed, he acts and decides with consistent respect for the principle of responsibility in the work of public organs.

In this connection, it is not out of place to mention the Old Testament principle that reads: "Do not do unto others what you do not want them to do to you." or the New Testament principle contained in the Gospel according to Matthew that reads: "Do unto people as you would have them do unto you."****

***** See: Holy Scripture – Bible, Matt. 7/12.

These millennial moral principles are the foundation of autonomous morality, and thus of the autonomous responsibility of every person, and especially of the person - a public servant.

The laws, some directly and some indirectly, prescribe or have this principle in mind. Thus, the Law on the Organization and Work of the State Administration Organs prescribes that the state administration organs perform their responsibilities, in addition to others, on the base of the principle of responsibility.*****

As for the attitude of officials towards the clients, this principle, although unfortunately not specifically prescribed, derives from the principles of the Law on General Administrative Procedure, and especially from the principle of service orientation of public organs, and from the principle of active assistance the client by the public organs. According to this principle, "The public organ is obliged to enable all clients in the procedure to exercise and protect their rights and legal interests in the most possible effective and easy way." The public authority informs the clients about the legal provisions that are important for solving the administrative work, about their rights and obligations, including all the information related to the procedure and warns them about the legal consequences of their actions or omissions.

The public organ allows the client to access him electronically. The absence of knowledge of the client participating in the procedure should not be to the detriment of his legal rights and interests."*****

This principle prescribed in this way, at least legally, excludes carelessness, recklessness and irresponsibility in the action of public organs, that is, ie in the work of officials who work in administrative procedures for the realization of the rights and legal interests of citizens.***** But, in practice, this principle is insufficiently applied, even though it is insisted on, a lot. It is natural that many clients in administrative proceedings do not know the path they should follow in order to exercise their rights and legal interests. If the organ conducting the procedure does not help such a client and does not instruct it, then the right of the client to active assistance by the organ remains only a legal declaration. This right enables a responsible and correct attitude towards the client. However, in order to realize that attitude, the official who conducts the procedure should help the client as much as it is necessary for him to exercise his rights and legal interests without difficulties and obstacles, and not only in the procedure until the adoption of the first instance solution, but also during the entire administrative procedure.*****

RESPONSIBILITY OF OFFICIAL PERSONS TO THE PUBLIC ORGANS IN WHICH THEY WORK AND TO THE PUBLIC SERVICE

Man is a social being. He, from the beginning of his formation, as homo sapiens, throughout the many millennia of evolution, lives and acts in community with other people. Public organs are organized communities of people - public officials and support staff who work and act in accordance with the rules established by the laws and by-laws that regulate the performance of the public service. Knowledge and consistent adherence to those rules by public officials is a basic requirement for harmonious, and therefore, efficient and effective functioning of public organs in serving citizens in the areas of social life for which they were established.

The responsible public servant, as a member of the working community of the public organ in which he works, should be adorned with the following moral values: loyalty to the public organ, adaptability, collegiality, democracy and social maturity. Loyalty is, of course, the most important among these values. It is also a condition for nurturing and developing other moral values. Loyalty implies a developed sense of belonging to the public organ, solidarity and reciprocity in the relations with the rest of its members, unconditional acceptance of the duties and obligations arising from the competences of the public organ, especially those defined by the act on the organization and systematization of jobs in the organ, protecting the interests of the organ and subordinating their official interests to the interests of the organ.

The public servant should be proud of the fact that he belongs to the public organ and that, as its member, he contributes, with his work, to the efficient and legal realization of the constitutional freedoms and rights of the citizens as clients.***** The exercise of some of those freedoms and rights is often of

***** See: Article 3 of the Law on Organization and Work of State Administration Organs.

***** Law on the General Administrative Procedure, ("Official Gazette of the Republic of Macedonia", number 124/2015).

***** This can be concluded from the frequent debates about the work of the public administration and information in the media, where the service role of its bodies is invariably emphasized.

***** See: Marković B. (1977), Position and Role of the Client in Administrative Proceedings. Privredni pregled, Belgrade, p. 39.

***** According to Article 4 of the Law on the Organization and Work of State Administration Bodies, these bodies are obliged to provide citizens with the efficient and lawful exercise of their constitutional freedoms and

vital importance to the citizen. A public servant should not be proud by his position in the public organ, but by the works he creates in the performance of public service. He is tied to his organ not because of the position he occupies in it, but because of the service he performs in serving the citizens within the competences of the organ. The moment when the public servant will not be able to contribute to the performance of the tasks of the public organ, the performance of his public service automatically ceases. Understood in this sense, public service cannot and must not become a privilege followed by a feeling of irreplaceability of the public servant who performs it. From this nature of the public service and from this knowledge about its nature, every public servant, as an official, should strive to improve his work by acquiring new knowledge and thereby creates prerequisites for more efficient and effective performance of his works tasks, which, in turn, is a function of the efficient and effective realization of the rights and legal interests of the citizens, for which public organ decides within its competences. Only in this way the public servant will contribute to the efficient and effective performance of the tasks of the public organ and to raising his reputation, and thus also to raising the reputation of the public service in the state as an organized community of citizens and as their social environment.

CONCLUSIONS

Man's responsibility for his personality, as a purely psychological category and for his character as a moral psychological category, enters the sphere of the personal as part of his psychophysical structure.

Man's responsibility to himself and to his conscience, as a moral category, is a personal relationship. His responsibility towards other people and towards the community, in which he lives, is a social relationship. If it, as a social relationship, is regulated by legal norms, the very act of regulation creates it a legal relationship.

Officials, as public servants, are special within the framework of people, as general. As homo sapiens, they belong to the general - people, inhabitants of Planet Earth, and as public servants they belong to the special - officials employed in public organs. As people and as officials they have guaranteed rights to respect, reputation and dignity. These rights are guaranteed to them by the international legal acts on human rights and by the provisions of the constitutions of the states that comply with those acts.

The honor, reputation and dignity of officials do not have the same weight as those of ordinary citizens, but more. They are given the honor to serve the rest of the citizens and, by serving them, to decide or participate in the decision-making about their rights and obligations, some of which are of vital importance for the citizens. From that honor comes a higher degree of reputation and dignity. A higher degree of reputation and dignity requires a higher degree of responsibility before conscience as part of a person's autonomous morality.

Responsibility before the conscience as a set of moral attitudes and judgments of the social environment, accepted by the public servant, is his autonomous responsibility. Autonomous responsibility is a reliable guarantee for conscientious, high-quality, efficient and effective performance of official duties.

The quality performance of official duties implies consistent adherence to the other principles of the work of public organs, such as the principle of constitutionality and legality, the principle of objectivity, the principle of service orientation, the principle of efficiency, the principle of economy and rationality and other principles.

Autonomous morality, and within it, autonomous responsibility is established and developed through the processes of upbringing and education, first, within the family, and then, through education in educational institutions and through the process of socialization in the social environment.

But, unfortunately, a significant number of officials in public organs do not have, or do not have in sufficient degree, autonomous morality. This is supported by the frequent occurrences of bad attitudes of officials towards the clients, the large number of low-quality decisions in administrative proceedings against which the clients are forced to file complaints, and against those final, and lawsuits for initiating an administrative dispute, the almost regular occurrence of decisions for the requests and complaints of the clients after the expiration of the legal deadlines, the long waiting time for the issuance of the so-called real documents (certificates, extracts from the registers, etc.), as well as personal identification documents (identity cards, driver's licenses, travel documents, etc.).

This problem is solved by activating and intensifying the work of the control and protection services and institutions of society: the system of internal control in public organs, inspections, internal affairs organs, the State Commission for the Prevention of Corruption, the Commission for Protection against rights. They, within their competence, ensure efficient and legal realization of the rights and interests established by law for all participants in the administrative procedure.

Discrimination, the Ombudsman, the prosecutor's offices and the courts.

These institutions initiate and conduct procedures for compensation of damage, disciplinary, misdemeanor and criminal procedures against the officials who violated the regulations that ensure high-quality, efficient and effective execution of the work of the public organs.

Officials who violated the regulations can bear material, disciplinary, misdemeanor and criminal liability. Appropriate sanctions can be imposed in the proceedings: an obligation to compensate the public authority or third parties for the damage done, then disciplinary, misdemeanor and criminal sanctions.

No one wants a procedure for material, disciplinary, misdemeanor or criminal responsibility to be initiated against him and to be sanctioned with an appropriate sanction. Officials in public bodies especially do not like that, because it damages their reputation and dignity, and even worse, by sanctioning, certain rights are taken away and limited. That is why officials try to avoid situations in which they can be subject to material, disciplinary and criminal responsibility. They fear such situations. Fearing and avoiding those situations, they work in accordance with the regulations that ensure quality, efficient and effective work of public organs. By this, actually, is achieved a heteronomous morality, and thus also a heteronomous responsibility based on the fear of sanction for wrongdoing.

From the above, it can be concluded, without a doubt, that the responsibility of officials, as public servants, is a supreme principle in the work of public organs. That is why this principle should be found prescribed in all laws that regulate social relations in all areas of social life in which public organs are responsible for serving citizens. Then, it should be found in all laws on procedural proceedings and in all by-laws: decrees, regulations and others, that elaborate separate provisions of the laws for the purpose of their execution. In the Macedonian legislation, the number of laws in which this principle is prescribed is small. In addition to the Law on the Organization and Work of State Administration Organs, it is found in the Law on Internal Affairs, the Draft Law on Ministry of Defense Employees, and it can rarely be found in other laws.

This principle, as a supreme principle, should be found in legal texts before other principles, because it is a condition for their implementation. Without responsibility, there is no service orientation of the public organs, no legality in their work, no objectivity, no efficiency, no economy and rationality, or, in short, no quality, efficient and effective service to the citizens by the public organs.

REFERENCES:

1. Alder J.,(2007), Constitutional and Administrative Law, Palgrave Macmillan, New York.
2. Constitution of the RNM,(2001), Special Edition, Fenix, Skopje.
3. Davitkovski B., Pavlovska – Daneva A.,(2018) Administrative Law, First Part – Material Law, Skopje.
4. Draft Law for Employees of the Ministry of Defense (2022), Ministry of Defense, Skopje.
5. Hristov A., (1981), Administrative Law, Institute for the Advancement of the Economy of SRM, Skopje.
6. Jovanovski Z., (2020), Administrative Law, Military Academy, Skopje.
7. Karadjoski M., (2020), Public - administrative cooperation in Europe, Faculty of Law, Kicevo.
8. Law on Internal Affairs (2022), Unofficial Revised Text, Ministry of the Interior, Skopje.
9. Law on the Organization and Work of State Administration Bodies ("Official Gazette of RM," No. 58/00).
10. Law on the general administrative procedure, ("Official Gazette of the Republic of Macedonia", No. 124/2015).
11. Law on Administrative Officers ("Official Gazette of the Republic of Macedonia," No. 27/14).
12. Marković B. (1977), Position and role of the party in administrative proceedings, Privredni pregled, Belgrade.
13. Thompson D., (2007), Political ethics and civil service, Službeni glasnik, Belgrade.
14. United Nation Basic Documents (1995), NIP "Nova Makedonija," Skopje.
15. Vitanski D.,(2020), Public and States Administration, University "St. Clement of Ohrid", Bitola.

